

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 82 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No

CHANDULAL GANPATRAM TRIVEDI

Versus

LAXMAN MOTILAL TAILOR

Appearance:

MR HB SHAH for Petitioner
MR RM VIN for Respondent No. 1, 3, 4, 5
MR BR SHAH for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 02/02/98

ORAL JUDGEMENT

Two Suits No. 93/67 and 100/75 were decided together by the Trial Court. Three appeals arose out of those judgments and decrees. This Second Appeal arises out of First Appeal No. 19 of 1997 whereby the First Appeal was dismissed by the lower appellate court and the judgment and decree of the trial court refusing the

appellant's right of way was confirmed.

The following substantial question of law was formulated in this Second Appeal.

Whether in the facts and circumstances of the case, the appellant has a right of way through the North of Namant Desai's Khadki, opening into Lallubhai Chakla ?

The learned Counsel for the appellant was heard at length. Judgments of the two Courts below have been perused. There is concurrent finding of fact recorded by the two Courts below that the plaintiff-appellant has no such right of way through the north of Namant Desai's Khadki opening into Lallubhai Chakla. This finding of fact by the two Courts below was recorded after proper appreciation of evidence on record. There seems to be no error in appreciating the evidence on record while recording the above finding. Consequently no substantial question of law arises for determination in this appeal so, the substantial question of law formulated in this appeal does not arise. There is no merit in this appeal which is hereby dismissed. No order as to costs.

m.m.bhatt